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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,501	01/15/2002	John Joseph Cooper	16-080	6798

7590 02/11/2004  
Thomas E Fisher  
Watts Hoffmann Fisher & Heinke Co  
1100 Superior Avenue Suite 1750  
Cleveland, OH 44114-2518

EXAMINER

LANGEL, WAYNE A

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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10/03/501

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- ☐ is extended to run \_\_\_\_\_ from the date of the Final Rejection
- ☒ continues to run 3 11/04/76 from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 1-16-04, has been considered with the following affect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - ☐ They raise new issues that would require further consideration and/or search. (See Note).
  - ☒ They raise the issue of new matter. (See Note).
  - ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See page 2.

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing of an appeal, the proposed amendment ☐ will be ☒ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-46 and 48

However:

- ☐ The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
  - ☐ The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.
4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other

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The recitation in claim 1 of "immersing in any one of water and a salt solution" would raise the issue of indefiniteness under 35 U.S.C. § 112 paragraph 2, since such recitation is improper Markush terminology.

The amendment to claim 1 reciting that the calcium sulfate anhydrite is immersed in any one of water and a salt solution where the concentration of salt and solution is less than 1% would also raise the issue of new matter. Applicant's argument, that support for the amendment to claim 1 can be found in the fourth and fifth paragraphs on page 3 of the international application, is not convincing, since that portion of the specification states that the salt solution may comprise succinic acid or potassium sulfate with a concentration of less than 1%. Such disclosure does not describe that the salt solution could be any salt with a concentration of less than 1%.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (571) 272-1353. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (571) 272-1358. The fax phone number for this Group is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WAL:cdc

February 5, 2004

*Wayne A. Langel*  
WAYNE A. LANGEL  
PRIMARY EXAMINER